

Action Information

Action Title: Announcement of Public Listening Sessions; Stakeholder Input on Peak Flows Management

Purpose: The purpose of the Federal Register notice is to announce three upcoming public listening sessions that will provide an opportunity for public input to inform the peak flows management rulemaking under consideration. The listening sessions will be held in Washington, DC on October 16, 2018; in Lenexa, Kansas at EPA Region 7 on October 24, 2018; and an online listening session on October 30, 2018 which will be accessible through [HYPERLINK "<https://www.epa.gov/npdes/municipal-wastewater>"].

Background: The Environmental Protection Agency (EPA) is interested in the views of the public on possible approaches to updating the National Pollutant Discharge Elimination System (NPDES) regulations related to the management of peak wet weather flows at Publicly Owned Treatment Works (POTWs) Treatment Plants serving separate sanitary sewer collection systems. Consequently, the EPA is inviting interested members of the public to three planned listening sessions: October 16, 2018 at EPA Headquarters in Washington, DC, October 24, 2018 at EPA Region 7 in Lenexa, Kansas, and October 30, 2018 online. The EPA welcomes oral or written input at the listening sessions as well as any other information the public may wish to provide the EPA through the docket (Docket ID No. EPA-HQ-OW-2018-0420). To register for any of the listening sessions, go to [HYPERLINK "<https://www.epa.gov/npdes/municipal-wastewater>"][HYPERLINK "<https://www.epa.gov/npdes/peak-flows-sewage-treatment-plants>"].

Stakeholder Involvement: The EPA acknowledges that significant expertise exists among states, tribes, POTWs and municipal officials, engineering firms, public health agencies, and the public related to these issues. These listening sessions will provide an opportunity for public input that will help the agency in developing a robust body of information to inform any proposed rule. This information will aid the EPA in developing a proposal that reflects a consistent approach to permitting that will allow the flexibility for innovative approaches while protecting human health and the environment.

Key Issues/Internal Review: Not applicable

Legal Deadlines: Not applicable

Timing: The Washington, DC listening session will be held on Tuesday, October 16, 2018 from 9:00 am to 2:00 pm EDT. The Lenexa, Kansas listening session will be held on October 24, 2018 from 9:00 am to 2:00 pm CDT. The EPA will hold an online listening session on October 30, 2018 from 11:00 am to 4:00 pm EDT. To allow ample time for registration and the preparation and submission of public comments, the FR Notice should be published no later than September 16, 2018.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 31 2018

OFFICE OF
WATER

Re: Notification of Consultation and Coordination on Peak Flows Management Rule

Dear Honorable Leader,

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally-recognized Indian Tribes on a Peak Flows Management Rulemaking EPA is considering. The EPA is evaluating changes to its National Pollutant Discharge Elimination System (NPDES) regulations to provide a permitting framework for evaluating options for managing and treating peak flows during wet weather events at municipal treatment plants with separate sanitary sewer collection systems. The aim of this effort is to establish a transparent process for permitting peak flows that will ensure continuous, flexible, and cost-effective operation of treatment plants and, at the same time, protect public health and the environment.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<https://www.epa.gov/tribal/forms/consultation-and-coordination-tribes>). The EPA invites you and your designated consultation representatives to participate in this process. The EPA's anticipated timeline for the consultation and coordination period is expected to extend from Friday, September 7, 2018 to Tuesday, November 6, 2018.

Enclosed is a consultation and coordination plan for this action that includes a description of the action under consultation and the process the EPA intends to follow, including a timeline for the consultation and coordination period and information on how you can provide input on this action. This information is also available on EPA's Tribal Consultation Opportunities Tracking System (TCOTS) at <https://tcots.epa.gov>.

The official EPA contact person for this consultation and coordination process is Jenelle Hill, Office of Wastewater Management. Please do not hesitate to contact Jenelle Hill by email at peakflowsrule@epa.gov or by phone at 202-566-1893 should you have any questions about this action.

I look forward to hearing your input on this rulemaking effort.

Sincerely,



Andrew Sawyers
Director, Office of Wastewater Management

Enclosure

Consultation and Coordination Plan: Peak Flows Management Rule

Background Information

The Clean Water Act (CWA) requires municipal treatment plants to comply with certain discharge requirements. Each treatment plant must obtain a National Pollutant Discharge Elimination System (NPDES) permit, requiring that the treatment plant's discharge meets the effluent limitations based on secondary treatment as defined by EPA and set forth at 40 C.F.R. Part 133. The permit must also require achieving any more stringent effluent limitations that are necessary to meet applicable water quality standards. (See CWA §1311(b)(1)(B), §1311(b)(1)(C), §1342(a), and 40 CFR 122.44(d).) The permit must also require the treatment plant operator to comply with other specified terms and conditions as provided in NPDES regulations at 40 CFR 122, such as requirements for monitoring and reporting.

Many wastewater treatment processes may be used for complying with CWA requirements. Most municipalities use a series of unit processes to treat wastewater prior to discharge including the following:

- preliminary treatment or screening to remove large solids,
- primary clarification (or preliminary sedimentation) to remove floating and settleable solids,
- biological treatment (also referred to as secondary treatment) to remove biodegradable organic pollutants and suspended solids, and
- disinfection to deactivate pathogens.

Some facilities also provide more advanced treatment designed to reduce other pollutants, such as nitrogen and phosphorus, that are not removed in any significant quantity by traditional biological treatment processes.

Separate sanitary sewer collection systems are designed to remove wastewater from homes and other buildings and convey it to a wastewater treatment plant. The collection system is a critical element in the successful performance of the wastewater treatment operation. Rainwater that inadvertently enters separate sewer systems increases flows to the treatment plant, potentially creating operational challenges.

Biological treatment components at treatment plants are particularly vulnerable to high-volume peak flows. When flows from the collection system to the treatment plant exceed the treatment capacity of existing biological or advanced treatment units, treatment plants must consider ways in which to prevent damage to their treatment processes, while maintaining effective operation of the system and meeting applicable NPDES permit limitations. Under these conditions, treatment plant operators use several different strategies which may include a combination of alternative treatment approaches, storage, and sewer maintenance and rehabilitation work to minimize the amount of rainwater that enters the collection system.

Among the peak flow management approaches that have been used or considered are those involving the diversion of a portion of the peak flows around biological or advanced treatment units. The diverted flow is then recombined with flows from the biological treatment units. Other alternatives include the installation of various treatment processes at the treatment plant that

supplement the plant's ability to process and treat peak flows. For more information, please refer to EPA's *Draft Summary of Blending Practices and the Discharge of Pollutants for Different Blending Scenarios* (EPA, June 2014) at https://www.epa.gov/sites/production/files/2015-10/documents/sso_lit_review_draft.pdf. Some of these approaches have been the subject of previous EPA policymaking efforts that have not been adopted. [See 68 FR 63042 (November 7, 2003), and 70 FR 76013 (December 22, 2005).] EPA has also looked at the potential public health implications of these different approaches. See *Summary of June 19–20, 2014, Experts Forum on Public Health Impacts of Blending* (EPA, May 2015) at https://www.epa.gov/sites/production/files/2015-10/documents/experts_forum_summary.pdf.

Treatment plants with separate sewer systems can also lessen the impact of peak flows by implementing a variety of strategies to minimize the introduction of rainwater into the collection system. These include system mapping, flow monitoring, conducting smoke or dye tests, sensor technology, and televising sections of the system. Developing plans for correcting and rehabilitating the highest priority sources of leaks into the collection system may involve such strategies as repairing manholes, replacing and repairing private building lateral pipes, ensuring building downspouts are not connected to the sewer system, sealing sewer joints, inserting sewer liners, or even replacing sections of the sewer line. Other strategies may focus on maximizing existing collection system capacity through real-time controls to optimize flows within the system, or building additional storage within the collection system or treatment plant.

Potential Impacts to Tribes

The Peak Flows Management Rulemaking may apply to municipal treatment plants with separate sanitary sewer systems that discharge into tribal waters, or the rule may apply to tribal government owned or operated treatment plants with separate sanitary sewer systems.

Tribal Government Involvement in the Peak Flows Management Rule Evaluation Process

EPA is requesting input from tribal governments on potential revisions to the NPDES regulations to establish a transparent and lasting framework to permitting peak flows management options that maintain or improve public health protection.

Opportunities for Tribes to Participate

The tribal consultation process table below lays out the process and timeline for government-to-government consultation and coordination which EPA has initiated by a letter to federally-recognized Indian Tribes. EPA is also looking for additional opportunities to engage with tribes on this issue during the consultation period.

Tribes may access the letter and related consultation information via EPA's Tribal Consultation Opportunities Tracking System, located at <https://tcots.epa.gov>. Additional information and current activities related to potential NPDES regulatory revisions can be found at: <https://www.epa.gov/npdes/peak-flows-sewage-treatment-plants>.

At any point in the tribal consultation process, tribes may submit written comments to:

- 1) E-mail: peakflowsrule@epa.gov, or
- 2) Mail: U.S. Environmental Protection Agency, Office of Water, Office of Wastewater Management, Mail Code: 7324N, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Attention: Peak Flows Management Rule Tribal Consultation

EPA intends to hold one informational webinar for tribal governments; to participate, please register at: <https://attendee.gotowebinar.com/register/993634548813862147>. The intent of the webinar is to provide an overview of the proposed rulemaking under consideration and answer questions. EPA is also open to one-on-one consultation meetings with interested tribal governments. Tribes that wish to request individual meetings with EPA should send the request in writing to the email address above by Saturday, November 3, 2018. EPA will work to honor those requests as time and resources permit.

In addition, EPA has scheduled two in-person public listening sessions and one virtual public listening session to hear a variety of perspectives from states, tribes, and stakeholders to help provide a complete picture of the considerations that should go into any rulemaking to address permitting requirements for the management of peak flows at POTWs with separate sewer systems. Tribes are welcome and encouraged to participate in these listening sessions. For additional information on the listening sessions and to register, please visit: <https://www.epa.gov/npdes/peak-flows-sewage-treatment-plants>.

Following consultation, EPA will prepare the proposed Peak Flows Management Rule for publication in the Federal Register for public review and comment.

Tribal Consultation and Coordination Process Timeline

Date	Event	Contact Information
September 7, 2018	Start of the consultation period based on the letters mailed to federally recognized tribes. Copies of the tribal consultation letter & proposed plan posted to EPA's TCOTS website https://tcots.epa.gov	Jenelle Hill (hill.jenelle@epa.gov ; 202-566-1893) & Lisa Biddle (biddle.lisa@epa.gov ; 202-566-0350)
September 26, 2018	Informational Webinar for Tribes. To participate, please register at: https://attendee.gotowebinar.com/register/993634548813862147 Participants can use their computer mic & speakers (VoIP) or dial in by phone: 1 (562) 247-8422	Jenelle Hill & Lisa Biddle
October 16, 2018	Public Listening Session at EPA Headquarters in Washington, DC	Jenelle Hill & Lisa Biddle
October 24, 2018	Public Listening Session at EPA Region 7 office in Lenexa, KS	Jenelle Hill & Lisa Biddle
October 30, 2018	Virtual Public Listening Session https://www.epa.gov/npdes/peak-flows-sewage-treatment-plants	Jenelle Hill & Lisa Biddle
November 6, 2018	End of 60-day consultation period for written requests from tribal governments seeking one-on-one consultation	Jenelle Hill & Lisa Biddle